

1 Adopt 2 Cal. Code Regs. Section 18701.4 to read:

2 **18701.4. Private Organizations Acting as Government Agencies.**

3 (a) A private organization is an “agency” pursuant to Section 82003 and its members,
4 officers, employees and consultants are “public officials” pursuant to Section 82048 in any of the
5 following circumstances:

6 (1) The organization meets at least three of the criteria described in subdivision (b).

7 (2) The organization meets the criteria described in subdivisions (b)(1) and (b)(3).

8 (3) The organization meets the criteria described in subdivisions (b)(2) and (b)(3).

9 (4) The organization is specifically authorized by the state constitution, or a city or
10 county charter.

11 (b) For purposes of this regulation, the term “criteria” means subdivisions (1) through (5)
12 below:

13 (1) The organization was created by statute or ordinance, or it would not have been
14 established without some official action by another government agency.

15 (2) The organization received more than fifty percent (50%) of its funding in the current
16 fiscal year from one or more government agencies. The term “funding” includes money, grants,
17 or the market value of any in-kind benefits such as the provision of staff, interest-free loans or
18 leaseholds on real property at discounted rates, and any other resources used to meet the
19 organization’s operational needs.

20 (3) A government agency or agencies have substantial involvement in or control over the
21 organization. Substantial involvement or control exists if any of the following apply:

1 (A) A majority of the board of directors, or the head of the organization, is appointed by
2 one or more government agencies, or by one or more elected officials or employees of
3 government agencies acting in their official capacities;

4 (B) A government agency, or one or more elected officials or employees of government
5 agencies acting in their official capacities, has the right to disapprove the name(s) of anyone
6 submitted to serve on the board or has the power to remove a majority of the sitting directors; or

7 (C) A majority of the organization's employees who perform the service provided by the
8 organization are employees of one or more government agencies and have been assigned to work
9 for the organization as part of their normal employment for their government agency.

10 (4) The organization provides a service or performs a function traditionally carried out by
11 a government agency.

12 (5) The organization is treated as a public entity by other statutory provisions such as the
13 following:

14 (A) The organization is required to comply with the requirements under the Ralph M.
15 Brown Act, Bagley-Keene Act or the California Public Records Act.

16 (B) The organization enjoys the same legal status as a government agency under tax and
17 security laws.

18 Note:-Authority cited: Section 83112, Government Code. Reference: Sections 82048, 87100,
19 87105, 87200 and 87302, Government Code.

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